Modified PTO/SB/33 (10-05)

PRE-APPEAL BRIEF REQUEST FOR REVIEW	Docket Number Q78089	
Mail Stop AF Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450	Application Number 10/699,687	Filed November 4, 2003
	First Named Inventor Stephen KAMINSKI	
	Art Unit 2617	Examiner Nicholas T. LA

WASHINGTON OFFICE
23373
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Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal

The review is requested for the reasons(s) stated on the attached sheet(s).
Note: No more than five (5) pages may be provided.

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Signature

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January 29, 2007
Date

PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of

Stephen KAMINSKI, et al.

Docket No: Q78089

Appln. No.: 10/699,687

Group Art Unit: 2617

Confirmation No.: 4929

Examiner: Nicholas T. LA

Filed: November 4, 2003

For: TELECOMMUNICATION METHOD SUPPORTING MULTIPLE AIR INTERFACES

PRE-APPEAL BRIEF REQUEST FOR REVIEW

MAIL STOP AF - PATENTS
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Pursuant to the new Pre-Appeal Brief Conference Pilot Program, and further to the Examiner's Final Office Action dated August 28, 2006, Applicant files this Pre-Appeal Brief Request for Review. This Request is also accompanied by the filing of a Notice of Appeal.

Applicant turns now to the rejections at issue:

Claims 1-15 are all the claims pending in the application. Applicant respectfully submits that all of the pending claims define patentable subject matter.

Claims 11 and 12 stand rejected under 35 U.S.C. 112, first paragraph, as allegedly failing to comply with the written description requirement. As indicated on page 2 of the December 18, 2006 Office Action, the Examiner indicates that this rejection has been withdrawn.

Claims 1-4, 7-10, 11-13 and 15 are rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over Wood (U.S. Pat. No. 5,412,375) and further in view of Hsu et al. (U.S. Patent No. 6,169,898; hereinafter "Hsu"). Applicant respectfully traverses this rejection.

Independent claim 1 recites, in part:

> selecting a sub-set of air interfaces from a set of air interfaces, the sub-set containing air interfaces, which support the required quality of service parameter set,
>
> providing the sub-set to a node of a radio access network having the set of air interfaces,
>
> selecting an air interface from the sub-set by the node for providing the required quality of service to a user equipment.

Wood, by contrast, is directed to:

> selecting an air interface with [sic] takes into account the capabilities of the subscriber and the particular system side transceiver with which it desires to communicate[,][1]

and further discloses:

> A compatible air interface, or list of compatible air interfaces is generated by the controller and provided to the base. The base will then direct the subscriber to access the communication system utilizing a compatible air interface.[2]

Thus, a single interface or a list of interfaces is selected and provided to the base. In either case, however, only one selection occurs in Wood.

Nevertheless, the Examiner asserts:

> Wood teaches selecting an air interface from a list of air interfaces; since there is no quantity requirement for a sub-set set forth in the claim language, therefore, it is to interpret sub-set of interfaces in this case is one interface.

[1] See Wood, col. 1, lines 46-49.

[2] See Wood, col. 1, lines 56-61.

Applicant respectfully disagrees with the Examiner's position.

Applicant agrees that Wood discloses selecting an air interface from a list of air interfaces. However, even assuming, *arguendo*, that the claimed "sub-set" of interfaces in this case corresponds to one interface as the Examiner contends, Wood only discloses making one selecting operation, i.e., selecting an air interface from a list of air interfaces. Thus, Wood fails to disclose or suggest more than one selecting operation, as the claimed invention, by contrast, requires. In other words, Wood fails to disclose or suggest selecting a sub-set from a set of air interfaces, and then selecting an air interface from the sub-set, as claimed. Therefore, Applicant respectfully submits that Wood fails to disclose or suggest all of the required features of independent claim 1.

Moreover, since Wood only discloses that the subscriber sends a list of its air interfaces and the base station forwards the subscriber's list of air interfaces attaching its own air interfaces, there is no selecting of a sub-set of air interfaces from a set of air interfaces. On the contrary, both the subscriber and the base station in Wood send all of their air interfaces.[3]

Further, as pointed out above, independent claim 1 also requires providing the sub-set to a node of a radio access network having the set of air interfaces, and then selecting an air interface from the sub-set by the node for providing the required quality of service to a user equipment. In other words, the sub-set is provided to a node, and the node then selects an air interface from the sub-set.

[3] See *e.g.*, Wood, col. 2, lines 58-68, a base station may reject a selection made by the controller if it is not available).

Wood, by contrast, discloses that the controller 45 selects an air interface.[4] In Wood, there is only one entity, *i.e.*, the controller, making a selection of an air interface. Wood fails to disclose or suggest one entity such as a controller selecting a sub-set of air interfaces and another entity such as a node of a RAN selecting one air interface from the sub-set. Furthermore, in Wood, there is no providing of the selected sub-set of air interfaces to a node of RAN. Wood merely discloses the controller providing one selected interface to the base station. Indeed, Wood is completely silent with regard to a node of the RAN.

In summary, Applicant submits that Wood fails to disclose or suggest all of the required features of independent claim 1, and Hsu clearly fails to cure the deficiency of Wood. Moreover, the combination of Wood and Hsu also fails to disclose or suggest all of the required features of claim 1.

Accordingly, Applicant submits that independent claim 1 is patentable over the applied references, at least for the reasons noted above. Similarly, Applicant submits that independent claim 10 is also patentable over the applied references for reasons analogous to those stated above regarding independent claim 1. Further, Applicant submits that dependent claims 2-4, 7-9, 11-13 and 15 are also patentable over the applied references, at least by virtue of their respective dependency on independent claims 1 and 10.

Claims 5, 6 and 14 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Wood in view of Hsu, and further in view of Kallio (U.S. Pat. App. Pub. No. 2002/0147008). Applicant respectfully traverses this rejection. Applicant submits that Kallio reference fails to supply the above-noted features missing from Wood and Hsu. Furthermore, the combination of the applied

[4] See Wood, col. 2, lines 37-39.

references fails to disclose or suggest all of the above-noted features set forth in independent claim 1. Consequently, Applicant submits that dependent claims 5, 6 and 14 are patentable over the applied references, at least by virtue of their respective dependency on independent claim 1.

Respectfully submitted,

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